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UNITED STATES PATENT AND TRADEMARK OFFICE

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09/729,989	12/06/2000	Kentaro Nakada	HIG05 001	7372

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DUANE MORRIS LLP
1667 K STREET, N.W.
SUITE 700
WASHINGTON, DC 20006

EXAMINER
NATNAEL, PAULOS M

ART UNIT	PAPER NUMBER
2614	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/729,989	NAKADA ET AL.
	Examiner	Art Unit	
	Paulos M. Natnael	2614	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 December 2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>6-10</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>6-10</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuzma,

U.S. 5,889,950.

Considering claim 6, Kuzma discloses a method and apparatus for distribution of

broadcast data. In particular, FIG. 3 of Kuzma illustrates an embodiment of a broadcast

unit comprising a scripting unit 220, storage unit 310, encoder 320 and video unit 330

and multiplexer 340. Kuzma teaches that "The HTML script is a viewer readable

broadcast schedule and an executable program that directs the scripting unit 220 to

coordinate the encoding of HTML web pages with television programs. " Col.. 5, lines

18-21

        Furthermore, Kuzma discloses that the Encoder unit 320 operates to encode

HTML web pages from the storage unit 310 into a format compatible with the

broadcasting signals of the first location 210. In one embodiment of the present

invention, the first location 210 uses analog broadcasting signals and the encoder unit

320 encodes web pages into VBI. In an alternate embodiment of the present invention,

the first location 210 uses digital broadcasting signals and the encoder unit 320

encodes web pages into a separate data channel. [emphasis added by examiner] The

encoder unit 320 encodes HTML web pages that are scheduled on the HTML script to

be broadcasted at a given time as directed by the scripting unit 210. column 5, lines 28-

40. Thus, Kuzma meets claim 6 as claimed.

Regarding claim 7, transmitting the executable program or code in advance is inherent,

because otherwise the decoder or the TV signal receiver cannot decode the signal.

As to claim 8, see disclosure on col. 5, lines 35-37.

3.   Claims 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by

Kostreski, U.S. 5,734,589.

Considering claim 6, Kostreski et al. teach a digital entertainment terminal with channel

mapping. Illustrated on FIG. 3 is a block diagram of a first example of a broadband

network for providing interactive services, such as video on demand, home shopping or

purchasing, home banking, medical information, ticket ordering, gaming, etc. In

particular, Kostreski teaches that, the broadband network selects certain broadcast

channels as VIP control channels to continuously transmit software control signals that

allow any user to randomly identify and select available VIP services. The software

control signals may include navigation software which includes instructions for

controlling selection of video services and a program or channel map for identifying the

RF channel and the PID values for video, audio, or data packets for each program

service. The program map information at least facilitates rapid channel changes

(channel surfing) through the VIP's broadcast services, using channel identifiers

arbitrarily selected by the VIP, for convenience and/or ease due to user acceptance...

Alternately, the DET may initially download a portion of the software (e.g. the

executable code) during turn-on, and access menu data from the control channel when

the user presses "GUIDE"; this variation will result in an increase in the execution speed

of the navigation software. In another variation, the DET may download software and

data during turn-on, and subsequently download only update data. (col. 15, lines 10-48)

In particular, Kostreski et al. disclose a communication network carrying broadcast

digital broadband channels of audio/video program information in compressed, digital

form from at least one video information provider, said communication network cyclically

broadcasting on at least one of said digital broadband channels a software control

signal corresponding to said at least one video information provider, said software

control signal including data for identifying said audio/video program information of said

at least one video information provider to a digital entertainment terminal receiving said

digital broadband channels and executable code for controlling the digital entertainment

terminal. Col. 32, lines 38-51 Thus, the above disclosure meets claim 1 as claimed.

[all emphasis added by examiner]

Regarding claim 7, transmitting the executable program or code in advance is met by

the disclosure on col. 32, lines 38-51.

As to claim 8, Kostreski et al. disclose a communication network carrying broadcast

digital broadband channels of audio/video program information in compressed, digital

form from at least one video information provider. Col. 32, 38-51

Considering claim 9, Kosterski discloses MPEG 2 format. Col. 7, line 35

Regarding claim 10, Kostreski et al. disclose a communication network carrying

broadcast digital broadband channels of audio/video program information in

compressed, digital form from at least one video information provider. Col. 32, 38-51

> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

4.   Claims 6-10 rejected under 35 U.S.C. 102(e) as being anticipated by Cohen et

al., U.S. 6,076,094.

Considering claim 6, Cohen et al. discloses a method for broadcasting data to a

television set using a carrier signal such as a television or commercial radio carrier

signal, constructing a data stream from individual first record of a transmission

database, each first record comprising one of a selection of formats, at least one of the

first records comprising <u>executable program code or an object</u>, broadcasting the data

stream within the carrier signal, providing a user with a user's device for receiving and decoding the data stream, the user's device receiving and decoding the data stream to a user's database, the user's database having second records comprising at least some of the first records, the second records comprising one of a selection of formats and at least one record comprising <u>executable program code or an object broadcast from the first records determining the format a second record using a control program running, when required, the executable program code, and generating a display on the television consistent with the format determined by the control program.</u> (see Abstract)

Further, Cohen teaches several embodiments including one that is illustrated in Fig.4 where the broadcasting station 111 transmits television signals (which comprise, as well known in the art, video, audio as well as other secondary or auxiliary data) In particular, Cohen discloses that "In the context of TV multimedia which receives forward directional information from a high bandwidth broadcast (point to multipoint) channel carrying RDS, <u>TV packet 31 or their digital domain equivalents (MPEG, MPEG2 and Orthogonal frequency division multiplex broadcast data packets),</u> for interactivity a point to point return link is needed...With reference to FIG. 4 a multimedia TV apparatus 110 comprises a TV station 111 in forward communication with a multimedia TV set 113 by way of TV signal 112. TV signal 112 is communicated via aerial 114 to a tuner 127 of a-multimedia TV set which is adapted to be tuned to a TV signal of a particular television channel and <u>to deliver video and audio information derived from that channel</u>. The multimedia TV apparatus 110 additionally includes a multimedia microprocessor 123 which is adapted <u>to derive data delivered via TV signal 112 from database 118</u> and to

instruct the generation of a database visual information signal 117 based on that data

for display on display 116. (see Col. 11, lines 38 through col. 12, lines 22)

Furthermore, Cohen teaches that the channel field in the packet header can be used to

allow several objects to be transmitted simultaneously on the same service, by

assigning each to a separate channel. Col 19, lines 15-17 and lines 48-51. And that the

data stream comprises one or more data objects represented by information encoded in

a first object and packet based protocol ... the information is broadcast in a second

packet based protocol. col. 22, lines 16-20. [emphasis added by examiner] Thus, Cohen

meets claim 6 as claimed.

Regarding claim 7, transmitting executable program in advance is inherent, because

otherwise the decoder (in the TV receiver) may not be able to decode the signal. (see

also Abstract of the disclosure)

As to claim 8, Cohen discloses the transmission of digital information. see col. 4, line

13+.

Regarding claim 9, see disclosure on col. 11, lines 41-49.

As to claim 10, see the disclosure on col. 19, lines 15-17 which discusses separate

channels and which doesn't preclude using separate broadcasting bands.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to
applicant's disclosure.

Chaney, U.S. 6,064,378 discloses program guide in a digital video system that
includes program service including executable computer programs for a receiver to
execute.

Broadwin, U.S. 6,275,989 discloses interactive TV system.

Berry et al. U.S. 6,598,227 discloses vehicle entertainment system having
multiple download channels.

Ebisawa, U.S. Patent Application Publication 2004/0219977 A1 discloses
executing a game program having advertisements therein.

Beckmann et al. U.S. 6,675,388 teach data distribution system using coordinated
analog and digital streams.

Muckle et al., U.S. 5,603,077 discloses a satellite broadcast system using an
airwave message signal to remotely control a signal receiver. The system includes a
system manager to issue a message, a message service to broadcast the message in
the airwave message signal, and a signal receiver to select a satellite and a channel of
a downlink signal from the satellite carrying a desired program. The program may
include audio/video, text, pictures, software, or data. In the preferred embodiment, the
message service is a pager service.

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paulos M. Natnael whose telephone number is (571) 272-7354. The examiner can normally be reached on 10:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

PMN
April 28, 2005